



Ninety-Ninth Legislature - First Session - 2005  
**Introducer's Statement of Intent**  
**LB 268**

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**Chairperson:** Mike Friend  
**Committee:** Urban Affairs  
**Date of Hearing:** February 1, 2005

The following constitute the reasons for this bill and the purposes which are sought to be accomplished thereby:

The basic concept underlying the Volunteer Emergency Responders Recruitment and Retention Act was to authorize the creation of service benefit award programs that would provide cities, villages and fire protection districts with the authority to set aside funds for volunteer responders on an annual basis based upon the willingness of the volunteer to serve for a period of years with the benefits (or service awards) paid out upon such volunteer's retirement. The essence of the program was that the benefits accrued by the volunteer for each year of service would not be counted as taxable income in the year they were earned if the program was properly created.

Thus, the volunteer would not be required to report or pay taxes on the benefits accrued under the program, even if they were nonforfeitable or "vested" until the volunteer has retired and began spending the earned benefits.

Concerns have been raised about the current provisions of the Act in the light of prior IRS rulings on programs in other states. Because Sec. 35-1324 creates a "funded arrangement" where the assets are held in a virtually "inviolable" trust for the benefit of the volunteer that has qualified for the ultimate payment of the benefits, there is a real possibility that the benefits would be taxable to the volunteer in the year in which they were earned.

To avoid this circumstance, the amendment proposed in section (3) would provide that the assets would be placed in a "grantor" trust within the meaning of the relevant provisions of the IRS Code (page 5, lines 11 to 14 of the bill). This would be structured to provide some security for the sponsoring political subdivision without penalizing the individual participating volunteer by creating a current tax liability. This is accomplished by making the funds set aside for the program subject to general creditors of the city, village, or fire protection district in the event of the insolvency or bankruptcy of those subdivisions (page 5, line 27 to page 6, line 10). The assets set aside for the volunteer would not be subject to attachment for debts of the volunteer (until final distribution).

Additionally, a new subdivision to Sec. 35-1324 is added authorizing the subdivision sponsoring the program to include in the trust and provisions deemed

necessary to insure that the benefit accrued are not taxable to the beneficiary until distribution (thus avoiding the need for additional legislative action to cure defects which may be discovered in the future or to address new issues raised by federal authorities).

While this is the core issue in the bill, three other matters are dealt with in the bill.

First, Sec. 35-1310 is amended (in section 1 of the bill) to make it clear that the certification administrator of any program must make annual status reports to the governing body of the political subdivision sponsoring the program (and not just one report in the first year).

Second, Sec. 35-1312 is amended (in section 2) to authorize “graded vesting” in a local program. Under the current provisions of the bill, nothing is “vested” to the volunteer participant until a full ten years is served. This would authorize a plan to include provisions permitting proportional vesting: 50% after 5 years, 60% after six years, etc.

Third, Sec. 35-1330 is amended (in section 4) to authorize (at the discretion of the sponsor) that forfeited accounts (funds set aside for volunteers who do not “vest” by serving sufficient time) be used to reduce the amount of current or future obligations of the sponsor to the total awards benefit program (instead of just for the cost of conducting the program).

**Principal Introducer:**

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**Mike Friend, Chairperson  
Committee on Urban Affairs**